

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF THE UTILITY CENTER,)
INC., d/b/a AQUA INDIANA, INC. FOR)
APPROVAL OF THE TRANSFER OF A)
PORTION OF ITS PLANT AND PROPERTY,)
FOR LEAVE TO RELINQUISH ITS)
AUTHORITY TO PROVIDE SEWAGE)
DISPOSAL AND WATER UTILITY)
SERVICES IN PORTIONS OF PERRY AND)
WASHINGTON TOWNSHIPS OF ALLEN)
COUNTY, INDIANA, AND FOR)
TERMINATION OF RELATED)
OBLIGATIONS)

CAUSE NO. 43453

FINAL ORDER

APPROVED: AUG 13 2008

RESPONDENT:)
CITY OF FORT WAYNE, INDIANA)

BY THE COMMISSION:

Jeffrey L. Golc, Commissioner

Lorraine Hitz-Bradley, Administrative Law Judge

On February 29, 2008, Utility Center, Inc. d/b/a Aqua Indiana, Inc. ("Aqua Indiana" or "Petitioner") filed a *Verified Petition* requesting that the Indiana Utility Regulatory Commission ("Commission") allow it to relinquish the portion of its certificate of territorial authority ("CTA") covering three distinct areas in Perry and Washington Townships of Allen County commonly referred to as the Pine Valley CTA, Lake River CTA and Clearwater CTA (jointly identified herein as the "North System CTAs"). On March 13, 2008, the Commission issued a docket entry determining that the City of Fort Wayne, Indiana ("Fort Wayne" or "Respondent") was a necessary party to this proceeding, making them a named respondent and revising the caption to reflect Fort Wayne's status.

Pursuant to notice published as required by law, the Commission held a prehearing conference in this cause on April 15, 2008, in Room 224 of the National City Center, 101 West Washington Street, Indianapolis, Indiana at 1:30 p.m. Proofs of publication of the notice of the prehearing conference were incorporated into the record and placed in the official files of the Commission. The Petitioner, the Respondent and the Office of Utility Consumer Counselor ("Public" or "OUCC") appeared and participated at the prehearing conference. No members of the general public appeared. Pursuant to the agreement of the parties, the Commission set prefilings and hearing dates in the cause. Additionally, at the prehearing conference Petitioner

offered to file an amended petition adding a request, to the extent necessary, that the Commission approve the transfer of Aqua Indiana's North System assets to Fort Wayne. On April 23, 2008, the Commission adopted a Prehearing Conference Order which established procedures for submitting testimony or settlements to the Commission and noted that Petitioner filed its *Amended Petition* on April 21, 2008.

Pursuant to notice given as provided by law, proof of which was incorporated into the record by reference and placed in the official files of the Commission, a public evidentiary hearing was convened in this Cause on May 30, 2008 at 1:30 p.m., in Room 224 of the National City Center, 101 West Washington Street, Indianapolis, Indiana. At the public hearing, Aqua Indiana, the OUCC and Fort Wayne provided witnesses in support of the Commission Settlement and their live testimony was received and admitted into the record of the proceedings in this Cause. Additionally, the *Verified Petition* and the *Amended Verified Petition* were received and admitted into the record of the proceedings in this Cause. No members of the general public appeared at the evidentiary hearing. The Presiding Officers continued the hearing until July 7, 2008, at 9:30 a.m. to allow for the submission of a settlement between the parties.

On July 2, 2008, the Petitioner and Respondent jointly filed a *Joint Stipulation and Settlement Agreement*, including various exhibits resolving all issues actually or potentially raised in this Cause by the Parties ("Commission Settlement").¹ The Petitioner and Respondent initially indicated in the *Commission Settlement* that the Commission and OUCC were parties to the agreement. On July 7, 2008, the Presiding Officers re-convened an evidentiary hearing and accepted the *Commission Settlement* into evidence without objection. Prior to offering the *Commission Settlement* in evidence, the Petitioner and Respondent removed references in the document indicating that the Commission and OUCC were parties to the agreement, as neither Commission nor OUCC staff had participated in the negotiation of the matters at issue herein. The OUCC offered the testimony of Hal Rees in support of the *Commission Settlement*, which was entered into evidence with no objection.

Having considered the evidence and being duly advised, the Commission now finds:

1. **Notice of Jurisdiction.** Due, legal, and timely notices of the evidentiary hearings in this Cause were given and published by the Commission as required by law. Petitioner is a "public utility" as defined in Ind. Code § 8-1-2-1(a) and a "sewage disposal company" as defined in § 8-1-2-89(a)(2) and therefore is subject to the Commission's jurisdiction. Petitioner is currently doing business as Aqua Indiana.

2. **Utility Center's Characteristics.** Petitioner is a for-profit Indiana corporation engaged in the business of rendering water and sewer utility services in Allen County and Whitney County, Indiana. Petitioner's corporate office is located at 2200 West Cook Road, Fort Wayne, Indiana 46818.

¹ The Commission accepts this term as used by the parties for the purposes of distinguishing the settlement in this Cause with any other settlement the parties may reach in other venues. Such a designation as a "Commission Settlement" should not be construed to mean that the Commission was a party to the agreement, as it was not.

Petitioner's utility properties were historically operated as part of two geographically separate systems: the North System and the Aboite Township System. The North System includes portions of St. Joseph, Washington, Cedar Creek and Perry Townships. The Aboite Township System serves Aboite and Wayne Townships in Allen County and a small portion of Whitley County. As of February 12, 2008, Fort Wayne took possession of the North System assets.

3. **Relief Requested.** In the original *Petition*, Petitioner requested that the Commission allow it to relinquish its authority to provide sewer service in the North System CTAs. At the Commission's request, in the *Amended Petition* Petitioner added a request that the Commission approve the transfer of the North System assets to Fort Wayne. Additionally, Petitioner added a request that the Commission allow it to relinquish its authority to provide water service in the area served by the North System water assets.

4. **Background and Related Litigation.** In June 2002, Fort Wayne initiated a condemnation action to take Aqua Indiana's North System assets. Aqua Indiana filed suit challenging Fort Wayne's condemnation. In June 2007, the Indiana Supreme Court in *Utility Center, Inc. v. City of Fort Wayne*, 868 N.E.2d 453 (Ind. 2007) addressed the condemnation action. Subsequent to the Supreme Court's decision, Fort Wayne awarded damages to Aqua Indiana for the taking of the North System assets. Aqua Indiana has challenged the amount of the damage award, and that action is pending in Allen County Superior Court.

Fort Wayne proceeded to attempt to take possession of the North System assets in December 2007. Aqua Indiana disagreed with the process Fort Wayne was using to acquire the property and filed suit opposing Fort Wayne's efforts. In January 2008, Fort Wayne and Aqua Indiana were able to enter a settlement resolving all issues, except final valuation, regarding Fort Wayne's condemnation of Aqua Indiana's North System assets ("Litigation Settlement").

Pursuant to the terms of the Litigation Settlement, on February 12, 2008, Fort Wayne took possession of the North System assets. In order to ensure a smooth transition for the customers served by the North System assets, Fort Wayne and Aqua Indiana also entered into a Professional Services Agreement providing that Aqua Indiana would continue to operate the North System (both water and wastewater systems) during the transition of the North System customers from treated ground water supplied by Aqua Indiana to treated surface water from Fort Wayne's facilities. All of the customers have now been transitioned.

5. **Relinquishment of CTA.**

A. **Reason for Relinquishment.** Fort Wayne's condemnation of the North System assets includes the facilities that Aqua Indiana used to provide wastewater services to the North System customers. Indiana Code § 8-1-2-89(k) permits the Commission to terminate a CTA in the event "any term, condition, or limitation of" it has not been satisfied by the holder. The Parties to the Settlement agree that with the loss of its North System wastewater collection system assets, Aqua Indiana lacks the ability to provide sewage disposal services to any customers within the North System CTAs. The portions of Aqua Indiana's overall wastewater CTA contained within the North System CTAs are more specifically described in Exhibit B to the Settlement.

B. Service to Customers Within the North System Wastewater CTAs. The Parties in the Settlement agree that Fort Wayne is prepared to provide service to any customer currently receiving or prospectively requesting sewer service in the North System CTAs. Fort Wayne already provides the treatment services for sewage collected from the North System CTAs and has agreed to provide service in a reasonably timely manner to any customer that requests sewer service in the North System CTAs (regardless of whether that customer is requesting service for septic relief or because of new construction).

C. Aqua Indiana's Ability to Provide Service in its Remaining Wastewater CTA. Aqua Indiana's relinquishment of its authority to provide sewage disposal service within the North System CTAs does not affect in any way its authority to provide sewage disposal services elsewhere in the area identified in the Commission's March 3, 2004 Order in Cause No. 42332 (the "CTA Order"). With the exception of the North System CTAs, Aqua Indiana continues to be authorized to serve all remaining areas within which the CTA Order authorized it to provide sewage disposal services.

6. Other Issues. Pursuant to discussions at the Prehearing Conference, Aqua Indiana filed its *Amended Petition*. The *Amended Petition* adds a request that the Commission approve the transfer of Aqua Indiana's North System assets. The *Amended Petition* also requested that the Commission allow Aqua Indiana to relinquish its authority to provide water service in the area served by its North System assets.

Through the Litigation Settlement and the Operating Agreement, Aqua Indiana and Fort Wayne assured that customers were transitioned from Aqua Indiana's service to Fort Wayne's service with minimal disruption or confusion. All North System customers have now been completely transitioned to Fort Wayne service. In the Commission Settlement, Fort Wayne has agreed to deal with North System customer complaints and issues in a timely fashion regardless of whether those complaints relate to Aqua Indiana's service or Fort Wayne's service.

Aqua Indiana has an existing rate case in Cause No. 43331. Aqua Indiana was permitted to submit revised testimony in that Cause which reflects the change in rate base and expenses that resulted from Fort Wayne's condemnation of the North System assets. Therefore, the change in rate base and expenses is being reviewed in the current rate proceeding.

The items discussed above in the Commission Settlement, and throughout this Order, demonstrate that this is an unusual situation with unique facts and circumstances. Given the specific facts and circumstances surrounding Fort Wayne's condemnation of Aqua Indiana's North System assets, we accept the terms of the Commission Settlement and find that Aqua Indiana's the North System CTAs are hereby relinquished and that no further action of the Commission is required in this Cause. To the extent that Commission approval is required for the transfer of Aqua Indiana's assets to Fort Wayne, we grant that approval now.

7. Settlement. Settlements presented to the Commission are not ordinary contracts between private parties. *United States Gypsum, Inc. v. Indiana Gas Co.*, 735 N.E.2d 790, 803 (Ind. 2000). When the Commission approves a settlement, that settlement "loses its status as a

strictly private contract and takes on a public interest gloss.” Id. (quoting, *Citizens Action Coalition v. PSI Energy*, 664 N.E.2d 401, 406 (Ind. Ct. App. 1996)). Thus, the Commission “may not accept a settlement merely because the private parties are satisfied; rather [the Commission] must consider whether the public interest will be served by accepting the settlement.” *Citizens Action Coalition*, 664 N.E.2d at 406.

Furthermore, any Commission decision, ruling, or order - including the approval of a settlement - must be supported by specific findings of fact and sufficient evidence. *United States Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coalition v. Public Service Co.*, 582 N.E.2d 330, 331 (Ind. 1991)). The Commission's own procedural rules require that settlements be supported by probative evidence. 170 I.A.C. 1-1.1-17(d). Therefore, before the Commission can approve the Settlement Agreement, we must determine whether the evidence in this Cause sufficiently supports the conclusions that the Settlement Agreement is reasonable, just, and consistent with the purpose of Indiana Code § 8-1-2, and that such agreement serves the public interest. A review of the evidence in the record shows that the settlement represents a fair resolution of the matter. This Settlement resolves certain discrete terms relating to a highly contested transaction. The parties have successfully satisfied the Commission that the public interest is served by the approval of this Settlement.

The parties agree that the Settlement Agreement should not be used as precedent in any other proceeding or for any other purpose, except to the extent necessary to implement or enforce its terms. Consequently, with regard to future citation of the Settlement Agreement, we find that our approval herein should be construed in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434 (*Ind. Util. Reg. Comm'n*, Mar. 19, 1997).

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. The Joint Stipulation and Settlement Agreement filed in this Cause on July 2, 2008, should be approved in its entirety, without change, and the terms and conditions thereof should be incorporated herein as part of this Order, and the Parties should comply with the provisions of the Joint Stipulation and Settlement Agreement.
2. Aqua Indiana's relinquishment of the North System CTAs is hereby approved.
3. Aqua Indiana's relinquishment of its authority to provide water service in the area served by the North System water assets is hereby approved.
4. Any issues regarding Aqua Indiana's rates will be resolved in Cause No. 43331.
5. Under the specific facts and circumstances of these matters, the Commission accepts and approves the terms of the Joint Stipulation and Settlement Agreement and determines that no further action by the Commission is required in this Cause with regard to the Amended Petition. To the extent that Commission approval is required for the transfer of Aqua Indiana's assets to Fort Wayne, we grant that approval now.

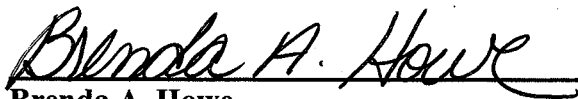
6. This Order shall be effective on and after the date of its approval.

HARDY, LANDIS AND ZIEGNER CONCUR; GOLC AND SERVER ABSENT:

APPROVED:

AUG 13 2008

**I hereby certify that the above is a true
and correct copy of the Order as approved.**

A handwritten signature in cursive script, reading "Brenda A. Howe", written over a horizontal line.

Brenda A. Howe

Secretary to the Commission

OFFICIAL EXHIBITS

STATE OF INDIANA INDIANA UTILITY REGULATORY COMMISSION

4HB
IURC
RESPONDENT'S

EXHIBIT NO. 1

DATE 7-8-08

REPORTER AT

PETITION OF THE UTILITY CENTER, INC., d/b/a)
AQUA INDIANA, INC. FOR APPROVAL OF THE)
TRANSFER OF A PORTION OF ITS PLANT AND)
PROPERTY, FOR LEAVE TO RELINQUISH ITS)
AUTHORITY TO PROVIDE SEWAGE DISPOSAL)
AND WATER UTILITY SERVICES IN PORTIONS)
OF PERRY AND WASHINGTON TOWNSHIPS OF)
ALLEN COUNTY, INDIANA, AND FOR)
TERMINATION OF RELATED OBLIGATIONS)

CAUSE NO. 42453

FILED

JUL 02 2008

INDIANA UTILITY
REGULATORY COMMISSION

JOINT STIPULATION AND SETTLEMENT AGREEMENT

Utility Center, Inc. d/b/a Aqua Indiana ("Aqua Indiana"), ^{AND} the City of Fort Wayne, Indiana ("Fort Wayne"), the ~~Office of the Utility Consumer Counselor ("OUCC"), and the Indiana~~ ^{REL} ~~Utility Regulatory Commission staff ("Commission Staff")~~ ^{TPM} (herein sometimes collectively referred to as the "Parties"), stipulate and agree for purposes of resolving the issues in this Cause to the terms and conditions set forth below (which terms and conditions and the appendices attached hereto are collectively referred to herein as the "IURC Settlement"):

BACKGROUND

In or around June 2002, Fort Wayne initiated its condemnation efforts. In January 2008, the parties reached a settlement agreement ("Litigation Settlement") resolving all issues between the parties regarding the condemnation except purchase price, a copy of which is attached hereto and incorporated herein as Exhibit A. On February 12, 2008, the assets were transferred to Fort Wayne. As part of the Litigation Settlement, Aqua Indiana and Fort Wayne agreed to a process to ease the transition of the North System customers from Aqua Indiana to Fort Wayne. While Fort Wayne on February 12, 2008 took immediate possession of the North System assets, Fort Wayne and Aqua Indiana entered into a Professional Services Agreement providing that Aqua Indiana would continue to operate the North System (both water and wastewater systems) during

the transition of the North System customers from treated ground water supplied by Aqua Indiana to treated surface water from Fort Wayne's facilities.

On February 29, 2008, Aqua Indiana filed a Verified Petition in this Cause requesting that the Commission allow it to relinquish the portion of its certificate of territorial authority ("CTA") covering the North System wastewater assets (also known as the Pine Valley CTA, Lake River CTA and Clearwater CTA (jointly identified herein as the "North System CTAs")). The legal descriptions of the North System CTAs are attached as Exhibit B. Aqua Indiana requested that relinquishment of the North System CTAs be handled in an expedited manner, with the Verified Petition serving as Aqua Indiana's case-in-chief. The Commission conducted a Prehearing Conference in this Cause on April 15, 2008.

At the Prehearing Conference, Aqua Indiana agreed to amend its Verified Petition, on or before April 21, 2008, to include a request for Commission approval of the transfer of its North System assets to Fort Wayne, and the Parties agreed to work together in an effort to establish a settlement resolving all regulatory issues related to Fort Wayne's condemnation of the North System assets (this IURC Settlement). At the Prehearing Conference, a settlement hearing was set for May 30, 2008, with the IURC Settlement to be filed on or before May 23, 2008. The Verified Amended Petition was filed on April 21, 2008.

The facts and circumstances of Fort Wayne's acquisition of Aqua Indiana's assets are unusual. This IURC Settlement resolves all issues raised, or potentially raised, in this Commission Cause regarding Fort Wayne's condemnation of Aqua Indiana's North System assets.

TERMS OF THE SETTLEMENT

I. Relinquishment of CTA for Wastewater.

A. Reason for Relinquishment. Fort Wayne's condemnation of the North System assets includes the facilities that Aqua Indiana used to provide wastewater services to the North System customers. Indiana Code § 8-1-2-89(k) permits the Commission to terminate a CTA in the event "any term, condition, or limitation of" it has not been satisfied by the holder. With the loss of its North System wastewater collection system assets, Aqua Indiana lacks the ability to provide sewage disposal services to any customers within the North System CTAs. Thus, under the facts presented, Aqua Indiana cannot fulfill the obligations associated with ownership of the North System CTAs and it should be permitted to relinquish its authority to provide sewage disposal service within the North System CTAs.

B. Portions of CTA to be Relinquished. The Parties agree that Aqua Indiana should be allowed to relinquish the portions of its overall wastewater CTA identified herein as the North System CTAs and more specifically described in Exhibit B attached hereto.

C. Prospective Service to Customers Within the North System Wastewater CTAs. The Parties agree that Fort Wayne is capable of providing service to any customer currently receiving or prospectively requesting sewer service in the North System CTAs. Fort Wayne already provides the treatment services for sewage collected from the North System CTAs and agrees to provide service in a reasonably timely manner to any customer that requests sewer service in the North System CTAs (regardless of whether that customer is requesting service for septic relief or because of new construction). Fort Wayne agrees to resolve any outstanding customer complaints from the North System CTAs in a timely manner regardless of whether those complaints arose before or after Fort Wayne took possession of the North System assets.

D. Aqua Indiana's Ability to Provide Service in its Remaining Wastewater CTA. Aqua Indiana's relinquishment of its authority to provide sewage disposal service within

the North System CTAs should not affect in any way its authority to provide sewage disposal services elsewhere in the area identified in the Commission's March 3, 2004 Order in Cause No.42332 (the, "CTA Order"). With the exception of the North System CTAs, Aqua Indiana should continue to be authorized to serve all remaining areas within which the CTA Order authorized it to provide sewage disposal services.

II. Fort Wayne's Condemnation of the North System Assets.

A. Transition Process. As discussed above and described in the Litigation Settlement and Professional Services Agreement, Fort Wayne and Aqua Indiana agreed to a process to ensure that the customers served by the North System assets were safely and smoothly transitioned from service by Aqua Indiana to service by Fort Wayne. In accordance with the Litigation Settlement, on February 12, 2008 Fort Wayne proceeded to take possession of the North System assets. In addition to hiring Aqua Indiana to temporarily operate the North System assets in accordance with the Professional Services Agreement, Fort Wayne provided detailed notices to all customers in the North System – one when they became Fort Wayne customers, and one when they were actually transitioned to water from the Fort Wayne water treatment plant. Copies of the notices are attached as Exhibit C.

The transition process and notices were adequate, ensuring that the North System customers were made aware of the change in utility services provider in a clear and timely manner and were transitioned to Fort Wayne in a safe and efficient manner.

B. Rates and Charges. Fort Wayne is currently charging the customers in the North System its currently approved tariff rates. Aqua Indiana is currently before the Commission in Cause No. 43331 seeking an increase to its rates and charges. Aqua Indiana was permitted to submit revised testimony in Cause No. 43331 which reflects the change in rate base and expenses that resulted from Fort Wayne's condemnation of the North System assets. Therefore, the change in rate base and expenses is being reviewed in the current rate proceeding.

III. Aqua Indiana's Request for Commission Approval for the Transfer of the North System Assets and to Relinquish its Authority to Provide Water Utility Services.

In the Verified Amended Petition, at the request of the Commission, Aqua Indiana asked the Commission to approve the transfer of the North System assets to Fort Wayne. In the Amended Verified Petition, Aqua Indiana also requested that the Commission authorize it to relinquish its authority to provide water utility services to customers receiving those services from the North System assets.

The Litigation Settlement resolves many issues between Fort Wayne and Aqua Indiana. One section of the Litigation Settlement provides that if any regulatory agency on its own seeks to have either party obtain regulatory approvals related to the actions contemplated in the Litigation Settlement, Aqua Indiana and Fort Wayne agree to cooperate in obtaining any required approvals. Aqua Indiana remains committed to complying with Commission regulations and has filed the subject Petition at the specific request of the Commission. The Parties disagree on the proper approvals and procedure for condemnation proceedings as demonstrated in the matter decided by the Supreme Court in *Utility Center, Inc. v. City of Fort Wayne*, 868 N.E.2d 453 (Ind. 2007). However, for purposes of settlement, the Parties agree that under the specific facts and circumstances of Fort Wayne's condemnation of the North System assets, no further action of the Commission is necessary regarding the issues discussed in this Section III of the IURC Settlement.

General Terms.

A. The Parties stipulate and agree that the terms described herein and the findings and ordering paragraphs of the Proposed Final Order, attached as Exhibit D hereto (the "Proposed Order"), constitute a fair, just and reasonable resolution of the issues raised, or

potentially raised, in this Cause, provided they are approved by the Commission in their entirety without change.

B. The Parties stipulate and agree to the issuance by the Commission of the Proposed Order. All of the terms and provisions contained in the Proposed Order are incorporated herein by reference and are accepted by each of the Parties as if fully set forth herein.

C. In support of the IURC Settlement, the Parties stipulate to the admission into evidence in this Cause of the Verified Amended Petition and Exhibits filed by Aqua Indiana on April 21, 2008, as corrected May 8, 2008, and the Exhibits A through D attached to this IURC Settlement. The Parties shall, if necessary, file additional testimony in support of this IURC Settlement and the terms thereof with the Commission and such shall not be opposed by the Parties hereto.

D. The Parties stipulate and agree that the evidentiary materials identified above constitute a sufficient evidentiary basis for the issuance of the Proposed Order by the Commission in accordance with the terms of the IURC Settlement.

E. The IURC Settlement is a result of a compromise derived from unusual and specific facts and representations particular to this Cause. The Parties stipulate and the Commission must find that this IURC Settlement shall not be construed nor be cited as precedent or deemed an admission by any party in any proceeding except as necessary to enforce its terms before the Commission or any court of competent jurisdiction on these particular issues. This IURC Settlement is solely the result of compromise in the settlement process and, unless otherwise provided herein, is without prejudice to and shall not constitute a waiver of any position that any of the Parties may take with respect to any or all of the items resolved herein in

any future regulatory or other proceeding and, failing approval by the Commission, shall not be admissible in any subsequent proceedings.

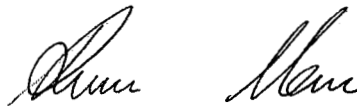
F. The concurrence of the Parties with the terms of the IURC Settlement is expressly predicated upon the Commission's approval of the IURC Settlement. If the Commission alters the Settlement by failing to approve the Proposed Order attached hereto without modification, unless that alteration is unanimously consented to by the Parties, in writing, the IURC Settlement shall be deemed withdrawn. The Parties stipulate that the agreed provisions with respect to the precedential effect of the IURC Settlement and Proposed Order are material to the IURC Settlement.

G. The undersigned have represented and agreed that they are fully authorized to execute this IURC Settlement on behalf of the designated clients who will be bound thereby.

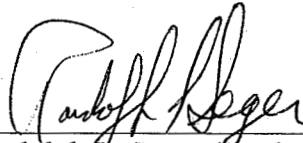
ACCEPTED AND AGREED TO THIS 30TH DAY OF JUNE, 2008.

[THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK]

CITY OF FORT WAYNE, INDIANA

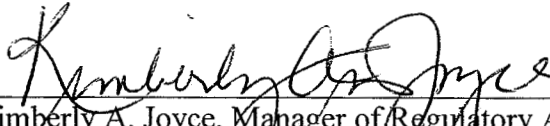


Kumar Menon, Director of City Utilities

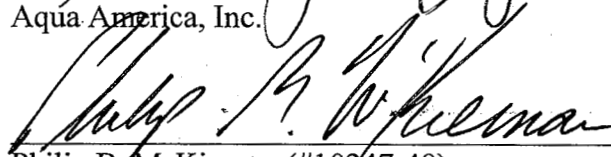


Randolph L. Seger (#240-49)
Bingham McHale LLP
2700 Market Tower
10 W. Market St., Suite 2700
Indianapolis, Indiana 46204-4900
Counsel to City of Fort Wayne

UTILITY CENTER, INC. d/b/a AQUA INDIANA



Kimberly A. Joyce, Manager of Regulatory Affairs,
Aqua America, Inc.



Philip B. McKiernan (#10247-49)
HACKMAN HULETT & CRACRAFT, LLP
111 Monument Circle, Suite 3500
Indianapolis, Indiana 46204-2030
Counsel to Utility Center, Inc. d/b/a Aqua Indiana

EXHIBIT A

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release is made this 14th day of January, 2008 by and between **UTILITY CENTER, INC.** ("Aqua") and **THE CITY OF FORT WAYNE, INDIANA** ("City").

WHEREAS, through various resolutions of City's Board of Public Works, City is in the process of condemning certain water and wastewater assets located within Aqua's North System (the "North System Assets");

WHEREAS, on October 10, 2007, City's Board of Public Works passed Resolution No. 94-09-19-07-01 awarding damages to Aqua for the City's condemnation of the North System Assets in the amount of \$16,910,500;

WHEREAS, on October 29, 2007, Aqua filed its Complaint, Written Objection and Demand for Jury Trial in the Allen County Circuit Court, Cause No. 02C01-0710-PL-132, appealing the City's condemnation and damages award (the "Public Works Board Appeal Lawsuit.");

WHEREAS, on December 7, 2007, Aqua filed its Complaint for Declaratory Relief and Injunction in the Allen County Superior Court, Cause No. 2001-0712-PL-622, (the "Wastewater Services Lawsuit");

WHEREAS, on December 12, 2007, City's Board of Public Works passed Resolution No. 94-12-12-07 stating City's intent to issue a check to Aqua in the amount of \$16,910,500 and take possession of the North System Assets on January 8, 2008;

WHEREAS, on December 10, 2007, Aqua filed its Complaint for Declaratory and Injunctive Relief in the Allen County Superior Court, Cause No. 02D01-07-12-PL-625, (the "North Injunction Action");

WHEREAS, on January 2, 2008, City's Board of Public Works passed Resolution No. 95-1-2-08-1 stating the City's intent to issue a check to Aqua and take possession of the North System Assets at some date after January 8, 2008;

WHEREAS, City and Aqua have discussed an agreement with respect to the transition of possession of the North System Assets;

WHEREAS, without admission of liability the parties have agreed to enter into this Settlement Agreement and Release (the "Agreement");

NOW THEREFORE, in exchange for the mutual promises set forth in this Agreement and for other good and valuable consideration, receipt of which is hereby acknowledged, and as full resolution of all claims that the City and Aqua may have against each other in the Wastewater Services Lawsuit and the North Injunction Action, IT IS HEREBY AGREED as follows:

1. **Possession**: At the Closing (as defined herein), the City will deliver a check to Aqua in the amount of \$16,910,500. It is expressly agreed by both parties that the acceptance of this check is in no way an acceptance by Aqua that the \$16,910,500 is an acceptable price for the North System Assets. Rather, the parties understand and agree that the final price for the North System Assets will be determined in the Public Works Board Appeal Lawsuit. The City shall deliver the above referenced check and Aqua will turn over possession of the North System Assets to the City. The parties acknowledge that Aqua and the City will consummate the change of possession of the North System Assets without waiving any of the claims, defenses or arguments that were or could have been asserted in the Public Works Board Appeal Lawsuit or can be raised in any condemnation effort by the City of Aqua's other assets.

2. **Agreements**: At the Closing, the City and Aqua will:

a) Enter into the Operations and Maintenance Agreement dated the date of the Closing, ("O/M Agreement") that is attached hereto and incorporated herein.

b) Enter into the Lease Agreement dated the date of the Closing, (the "Lease Agreement") that is attached hereto and incorporated herein.

3. Closing and Access Following Turnover of Possession:

a) Closing. On or after February 12, 2008, the parties hereto shall close the transaction contemplated herein at a mutually convenient time and place (the "Closing") and the parties shall produce the following. The City shall bring the check described in Section 1 of this Agreement, Aqua shall bring copies of the pleadings requesting dismissal with prejudice of the North Injunction Action and the Wastewater Services Lawsuit described in Section 9 of this Agreement, Aqua shall wire transfer the sum of \$450,000 as provided in Section 6 of this Agreement and the parties shall bring executed copies of the O/M Agreement and Lease Agreement described in Section 2 of this Agreement and attached hereto.

b) Post-Closing Access. Following the Closing, the City will permit Aqua full, unrestricted, and unabated access to all components of the North System Assets up to June 1, 2008 for the purposes of conducting and completing its valuation and appraisal of the North System Assets to the extent defined and limited by this Post-Closing Access Section 3(b) and provided that the extent and duration of any interruption to customers is minimized in both number of customers affected and also the duration of the interruption as described herein. Underground pipe sampling may be conducted if there is no interruption to service to a customer and any other disruption to service is minimized and the number of such samples is limited to no more than seventy-five (75) samples. Underground pipe sampling that will result in an

interruption to service of a customer may be conducted if such sampling is limited to no more than five (5) such samples and only after written notice to the City a minimum of five (5) business days prior to such sample with full details of such desired sample is provided to the City and the duration of the interruption is limited to no more than two (2) hours during non-business hours and the total number of aggregate customers interrupted (for all such interruptive samples) does not exceed fifty (50) customers. Failure to provide such notice or comply with duration limitations shall terminate any remaining interruptive sampling provisions provided by this Post-Closing Access Section 3(b). Except as provided above, both parties must provide the other party with 24 -hour notice of any underground pipe sampling and the opportunity to observe the sampling process conducted by the other party. The sampling party shall not be required, however, to coordinate sampling dates and times with the other party, nor to obtain agreement or approval of sampling dates and times. The sampling party shall, upon request, provide the other party with split samples of any service line samples taken, but shall have no obligation to provide split samples for any other portions of the system. The sampling party shall permit the non-sampling party to take additional samples at its own cost, and shall give the non-sampling party reasonable access to all samples taken. In addition thereto, Aqua shall retain full authority under this Agreement to access the North System Assets and records to the extent allowable by law to continue providing service to its customers in Aqua's Aboite System, fulfill its obligations under the O/M Agreement, and exercise its rights under the Lease Agreement.

4. **Res Judicata/Collateral Estoppel**: The parties agree that this Agreement shall not be admissible in the Public Works Board Appeal Lawsuit or in any other subsequent legal proceeding, except one to enforce this Agreement. The parties further agree that this Agreement shall not have any prejudicial, *res judicata* or *collateral estoppel* effect in the Public Works

Board Appeal Lawsuit or any subsequent legal proceeding, and each party specifically waives any right to raise this claim.

5. **City Obligations:** The parties acknowledge that following the consummation of the change of possession, Aqua will need to amend, re-state, supplement or revise the relief requested and evidence already filed in the general rate case proceeding currently pending before the Indiana Utility Regulatory Commission ("IURC") in Cause No. 43331 (the "Rate Case") in order to take into account the change of possession of the North System to the City and other matters. As part of any amendment, restatement, supplement or revision to the Rate Case, Aqua shall limit the requested increases in its rates and charges to amounts that will produce no more than a 75% increase in operating revenue from its water and sewer operations respectively. As consideration for the above, the City shall (1) not object to Aqua amending, restating, supplementing or re-filing its Rate Case, (2) agree to and abide by any revised procedural schedule established by the IURC in the Rate Case, (3) limit its participation in the Rate Case to issues related to Aqua's requests for a 75% limitation on its requested rate increases, issues related to inclusion of the North System Assets in the amendment, restatement, supplement or revision to the Rate Case, and to issues raised by the Office of the Utility Consumer Counselor ("OUCC") in testimony, motions, pleadings or other filings in the Rate Case, and (4) not file any request for extension of time, appeal, amicus curie, or any legal action contesting the final order of the IURC in the Rate Case. However, with respect to item (2), the parties agree that the procedural schedule in the Rate Case shall provide for an opportunity for the City to file cross-answering testimony to any testimony filed by the OUCC. Both parties agree not to use any ruling or finding by the IURC in the Rate Case (or any statements or conclusions contained in any settlement approved by the IURC in the Rate Case) to support their respective positions in

the Public Works Board Appeal Lawsuit. However, provided that they do not rely on the IURC's findings or rulings in the Rate Case (or any settlement underlying such findings or rulings), both parties have the right to raise any and all concepts and factors related to valuation, including those that were or could have been raised in the Rate Case, in the Public Works Board Appeal Lawsuit.

6. **Settlement of Wastewater Services Lawsuit:** At the Closing, Aqua shall tender a check or wire transfer the sum of \$450,000 to the City as full and final settlement of the Wastewater Services Lawsuit and all claims by the City related to all wastewater collection and treatment services provided by the City to the North System through the Closing date. The parties agree that Aqua will continue to pay the City for wastewater collection and treatment services provided by the City for the North System through the Closing Date based on the Aqua's current invoice payment practice.

7. **Release by Aqua:** Provided that the City complies with its obligations herein, Aqua, its parents, subsidiaries, affiliates, their respective officers, directors, agents, servants, employees, and consultants, and their respective successors and assigns hereby releases and forever discharge the City, its respective officers, directors, agents, servants, attorneys, employees, and consultants, and their respective successors and assigns, of and from any and all claims, rights, and causes of action which Aqua has had or may have had arising out of or relating to: the North Injunction Action and the Wastewater Services Lawsuit.

8. **Release by City:** Provided that Aqua complies with its obligations herein, the City, its respective officers, directors, agents, servants, attorneys, employees, and consultants, and their respective successors and assigns hereby releases and forever discharge Aqua, its parents, subsidiaries, affiliates, their respective officers, directors, agents, servants, employees,

and consultants, and their respective successors and assigns, of and from any and all claims, rights, and causes of action which the City has had or may have had arising out of or relating to: the North Injunction Action and the Wastewater Services Lawsuit.

9. **Dismissal of Lawsuits:** Within five (5) business days of the Closing, Aqua shall cause the North Injunction Action and the Wastewater Services Lawsuit to be dismissed with prejudice, and no additional lawsuits or other legal proceedings will be initiated regarding the condemnation of the North System Assets beyond the existing Public Works Board Appeal Lawsuit.

10. **No Admission of Liability:** Each party acknowledges that this Agreement is being entered into as a compromise of several disputes, and is without any admission of fault, liability or wrongdoing by either party. Each party has freely entered into this Agreement after fully reviewing the terms and consulting with its respective counsel, and fully understands that the Agreement represents a full and final compromise of all matters noted above, for the express purpose of precluding forever any future suits arising out of those matters.

11. **Entire Agreement:** This Agreement contains the entire agreement of the parties with respect to the settlement of the North Injunction Action and the Wastewater Services Lawsuit and the disputes between them, and supersedes any prior discussions, negotiations, agreements or understandings. No party is relying on any representation of the other party that is not expressly set forth herein.

12. **Severability:** If any part or term of this Agreement is held to be illegal, unenforceable, or ineffective, the validity of the remaining provisions shall not be affected and shall be enforced as though the Agreement did not contain the invalid part or term. All parties covenant not to attack the validity of any provision of this Agreement.

13. **Binding Effect:** This Agreement shall be binding on, and shall inure to the benefit of, the parties and their respective heirs, successors and assigns.

14. **Full Authority:** The signatories hereto represent and warrant that each of them is authorized to execute this Agreement and to release and forever discharge the claims released herein on behalf of the parties for whom they are signing.

15. **Governing Law:** This Agreement shall be governed by Indiana law, without regard to its conflicts of laws principles. Any dispute arising under this Agreement shall be litigated exclusively in Allen County, Indiana.

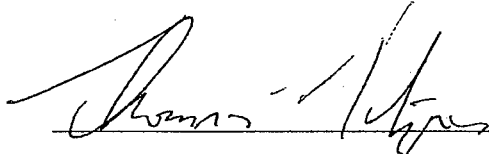
16. **Effective Date:** This Agreement may be executed by the parties in counterparts, which, collectively, shall constitute one agreement. This agreement shall become effective on the date of the Closing.

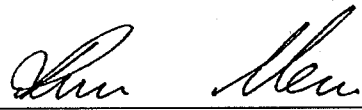
17. **Regulatory Approvals:** If any regulatory agency on its own seeks to have either party obtain regulatory approvals related to the actions contemplated in this Agreement, Aqua and City agree to cooperate in obtaining any such regulatory approvals.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed, as of the day and year first written above.

WITNESS:

CITY OF FORT WAYNE


THOMAS T. NITZA JR

By: 
Kumar Menon, Director of City Utilities

WITNESS:

UTILITY CENTER, INC.



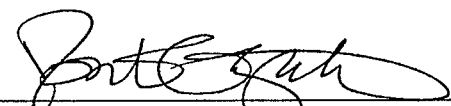
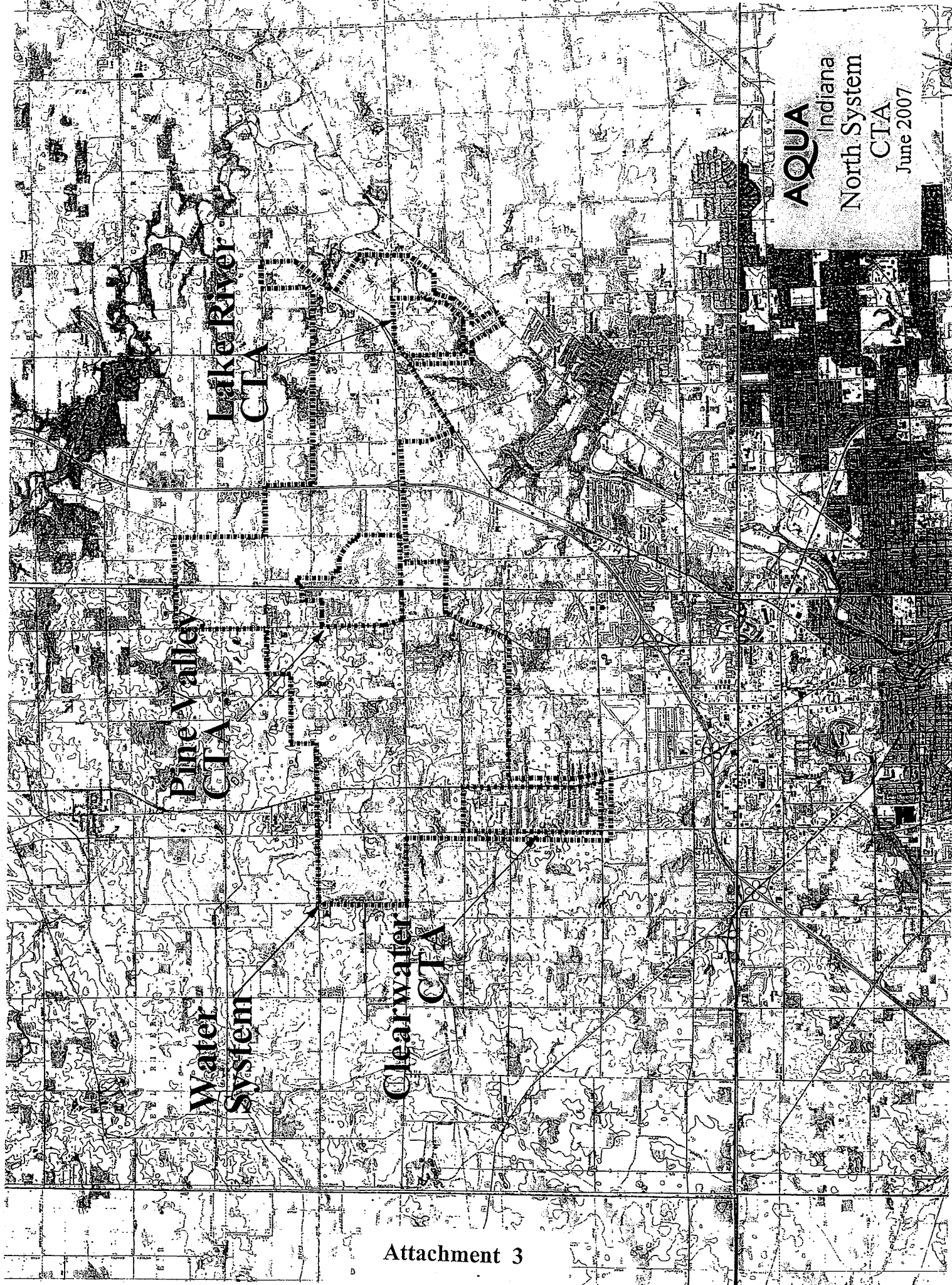
By: 
Authorized Agent

EXHIBIT B



AQUA
Indiana
North System
CTA
June 2007

EXHIBIT C



CITY OF FORT WAYNE

THOMAS C. HENRY, MAYOR

Fort Wayne City Utilities
One East Main Street, Room 270
Fort Wayne, Indiana 46802
(260) 427-1234

February 1, 2008

Dear Aqua Indiana North Water and/or Sewer Customer:

Fort Wayne City Utilities is pleased to welcome you as our customer effective February 12, 2008. Fort Wayne will begin servicing Aqua's 9,000 water customers and 1,700 sewer customers in the north end on that date. We are anxious to begin providing you with the same high level of service that our existing customers have come to expect. We want to make your transition to City service as smooth as possible. Fort Wayne will work closely with Aqua Indiana to ensure that service interruptions, if any, are minimized and that the switch in utility service providers is carried out with your safety as our primary goal.

When you become a customer of Fort Wayne City Utilities you will be charged City Utilities rates which are generally lower than Aqua Indiana's rates. Sample bill calculations are enclosed to give you an idea of how much you might expect to pay for City Utilities services. Specific questions about your future bills may be directed to City Utilities Customer Relations Department at 427-1234. A list of other important phone numbers is enclosed.

When you begin to receive bills from City Utilities, you will have a variety of payment options. You may pay in-person at the Customer Relations Department on the second floor of the Fort Wayne City-County Building at One East Main Street. You may also pay by mail, by automatic debit from your checking or savings account, on-line through City Utilities' website (www.fortwaynecityutilities.com) or by phone. Phone payments (either check or credit card) are made through Choice Pay by calling (877) 306-9265. Please note that Choice Pay does charge a small processing fee for "pay by phone" transactions.

If you are currently an Aqua Indiana water customer, you will become a customer of Fort Wayne City Utilities on February 12, 2008. Please be aware, however, that it may take several months for your neighborhood to receive City water through your existing water lines. City Utilities will send a second letter letting you know when we are close to switching your area to City water. In general, we expect that neighborhoods south of Till Road having Aqua Indiana water will likely be converted early in the process with the transition moving northward.

Fort Wayne City Utilities will keep in touch with neighborhood association presidents about the schedule for conversion to City water. Scheduling information will be available on the City's website – www.cityoffortwayne.org -- and in the local news media. The Transition Advisory Group (TAG) is another opportunity for you to stay informed. The next meeting of the TAG will be Monday, February 11, 2008 from 6:00 PM – 8:00 PM in the Omni Room on the second floor of the City-County Building. You may also call City Utilities for more information.

Thank you for making Fort Wayne your "Utility of Choice" and we look forward to serving you.

Sincerely,

A handwritten signature of Thomas C. Henry in black ink.

Thomas C. Henry
Mayor

A handwritten signature of Kumar Menon in black ink.

Kumar Menon
Director of Utilities

Sample Bill Calculations

Fort Wayne's residential water billing is made up of two components – a meter charge and a usage charge.

Meter Charge: A typical house will usually have a ¾" water meter. The monthly meter charge for a ¾" meter is \$7.30 for inside City or \$8.40 outside City.

Usage Charge: For inside City residents, water is billed in units of 100 cubic feet at \$1.49 per unit (about 748 gallons). Outside City water is billed at \$1.71 per unit. Sales tax is also applied to the amount of water used. There is NO minimum monthly water usage charge.

Sewer charges are based on the amount of water used. If there is no metered water service, a flat sewer rate is applied.

Expected City bill for current Aqua Indiana water customer without sewer service or with existing City sewer service

Water bill for average family inside City using about 7,500 gallons	\$22.20 (plus tax)
Water bill for average family outside City using about 7,500 gallons	\$25.50 (plus tax)
Water bill for small family inside City using about 3,750 gallons	\$14.75 (plus tax)

(Plus sewer charges as before)

Expected City bill for current Aqua Indiana water and sewer customer

Combo bill for average family inside city (7,500 gallons)	\$49.25 (plus tax)
Combo for average family outside City (7,500 gallons)	\$59.31 (plus tax)
Combo for small family inside City (3,750 gallons)	\$29.66 (plus tax)

Expected City bill for current Aqua Indiana sewer customer with a private well

New sewer bill will be based on flat rate of \$27.05 inside City or \$33.81 outside City
(Plus water charges as before)

How to Contact Fort Wayne City Utilities

Customer Relations

For account, billing and general information
7:30 AM – 5:30 PM Monday – Friday

427-1234

Water Maintenance and Service

For water service issues
24 hours a day, 7 days a week

311 (inside City)
427-8311 (outside City)

Water Pollution Control Maintenance

For sewer service issues
24 hours a day, 7 days a week

427-1255

Frequently Asked Questions

Water Quality Issues Related to Aqua Indiana February 6, 2008

Q: What is the hardness of City water? Is there a measure of hardness in water? How does the hardness of Fort Wayne's water compare with Aqua Indiana's water?

A: City water has less hardness than the water previously supplied by Aqua Indiana.

Hardness in water is measured in milligrams per liter (mg/L) or grains per gallon (gpg).

Fort Wayne's average water hardness in 2006	116 mg/L or 6.8 gpg
Maximum hardness in 2006	164 mg/L or 9.6 gpg
Minimum hardness in 2006	85 mg/L or 4.9 gpg

Aqua Indiana's annual water quality reports do not provide information about the hardness of the water it provides in the north area. The U.S. Geological Survey suggests that un-softened well water in the Fort Wayne area will range from 121 - 180 mg/L (7.1 - 10.5 gpg).

Hard water contains more dissolved magnesium and calcium than softer water. In 2006, Fort Wayne spent over \$1 million to soften its water by adding lime to the water during the treatment process. The hardness of water coming from Fort Wayne's Water Filtration Plant varies from day to day based on the quality of the incoming river water and the resulting treatment process.

Q: After my neighborhood is converted to City water, how long will it be before I can disconnect my water softener or reverse osmosis system?

A: Use or elimination of a water softener or similar equipment is totally a matter of personal preference. The past experience of City Utilities suggests that the water system should reach a stable condition within a month or so after the connection to City water is made. At that time, you could adjust or bypass your water softener or other similar equipment on a trial basis and then decide if you want to make more permanent adjustments.

Q: Does Fort Wayne add fluoride to its drinking water?

A: Yes. Many health organizations support drinking water fluoridation including the Centers for Disease Control, the American Dental Association, the American Medical Association, and professional associations of drinking water providers. Based on the position taken by those science based groups, the City has determined that adding fluoride to drinking water is an economical way to help provide some protection against tooth decay - especially for the members of our community who can most benefit - our young people.

North American water systems have been adding fluoride to their water supplies since 1945. According to the American Dental Association the rate of tooth cavities in children have been reduced substantially where fluoridation has been implemented. Dentists are beginning to suspect that bottled water may be part of the reason for recent increases in the rate of tooth decay among children. While bottled water is not being blamed for causing tooth decay, most bottled water does not contain enough fluoride to help prevent it. A number of bottled water companies have started adding fluoride to their products because of the health benefits, and they have labeled their bottles so that consumers know that fluoride is present.

The Centers for Disease Control says that it continues to strongly support community water fluoridation as a safe and effective public measure to prevent tooth decay and improve overall health. The CDC calls drinking water fluoridation one of the 10 great public health achievements of the 20th century. Recommendations of the Centers for Disease Control and Prevention published in August 2001 are available on the CDC's website at www.cdc.gov.

Fluoride is a naturally occurring mineral and is found in the drinking water in many communities even though they do not add fluoride. Aqua Indiana reports that the water in its north system contains naturally occurring fluoride.

Q: How does Fort Wayne disinfect its water?

A: Fort Wayne uses chlorine dioxide as the primary disinfectant in the water treatment process. Chlorine dioxide is used at the water filtration plant to kill bacteria in the water that could make people sick.

Q: How does Fort Wayne make sure that the water that gets to my house is as safe and clean as the water that leaves the water Filtration Plant?

A: All public drinking water systems are required to maintain what is called a "disinfection residual" throughout the water piping system. Basically this means that water in the pipes that are the farthest away from the Filtration Plant must not allow for the growth of bacteria that could cause illness. Fort Wayne uses "chloramines" to maintain this disinfection residual.

Chloramines are a created substance. The City puts chlorine into the water at the Filtration Plant and immediately adds ammonia to stabilize the chlorine and keep it from dissipating. The result is the creation of chloramines that remain in the water for a long period of time – providing the necessary disinfection residual throughout the water distribution system.

Many water systems use chloramines and other use free chlorine to ensure the disinfection residual. Fort Wayne uses chloramines in part because they are more stable than free chlorine and do not dissipate as much of the distinct chlorine smell associated with gaseous chlorine resulting in better tasting water.

More information about chloramines may be found in the brochure "Questions and Answers About Drinking Water Disinfection Using Chloramines."

The United States Environmental Protection Agency (US EPA) has regulations that limit chloramines concentration to 4 parts per million. A typical target level in public drinking water systems is 3 parts per million. Generally, the end of pipe chloramines level should be greater than 0.5 parts per million in 95% of samples taken in a two month period. Fort Wayne samples a number of sites daily to monitor the amount of disinfectant in the water pipeline system.

Q: I have a medical condition. Is it safe for me to drink City water?

A: In general, it is safe for everyone to drink Fort Wayne's water. If you have concerns about drinking water treated and provided by a public water source, you should discuss your concerns with your physician.

Q: I keep hearing bad things about chlorine in drinking water. Are there drawbacks to disinfecting water?

A: Water disinfection is absolutely essential for public health. International health organizations recognize good sanitary and drinking water purification as life essentials. In order to make water safe to drink, public water systems must kill bacteria. Most drinking water providers in the United States use some form of chlorine for drinking water disinfection.

The disinfection process can create byproducts. Disinfection byproducts are compounds that are created when the disinfectant used in water treatment reacts with bromide and/or natural organic matter in the source water – organic matter such as decaying leaves, twigs and so on. Different disinfectants produce different types and amounts of byproducts. The Environmental Protection Agency has established regulations and limits on some of these by-products including trihalomethanes, haloacetic acids, bromate and chlorite.

Fort Wayne reports the levels of these by-products that are found in City water in its annual water quality report. Disinfection by-products in Fort Wayne's water have always been below the regulatory limits set by the EPA. Information about Fort Wayne's water quality and how it compares with national standards is published annually for the previous year. The annual water quality report is mailed to each customer of Fort Wayne City Utilities in July.

What Should Fish Tank Owners Do?

Chloraminated water passes through the gills, and directly enters the bloodstream of fish, amphibian and aquatic reptiles. In the bloodstream it binds to the iron in red blood cells causing the cells to have a reduced capacity for carrying oxygen. So chloramines should be removed from water to be used for fish, amphibian and reptile use.

Fish tank owners including those restaurants and fish markets should make sure that they have appropriate activated carbon filtration equipment or use water treatment products that neutralize chloramines. These products are easily available through pet and aquarium stores and companies that service commercial fish tanks.



Are Saltwater Fish and Koi Affected?

Saltwater fish are affected by chloramines. Koi are just as susceptible to being harmed by chloramines as are other fish.

Does Letting Water Sit for a Few Days Remove Chloramines from Fish Tank or Pond Water?

No. Unlike free chlorine which dissipates, chloramines may take weeks to dissipate. However, if less than one percent of the total water volume of your pond is replaced with chloraminated water at one time, the pond should be able to absorb the chloramines with little impact on fish.

Will Chloramines Affect the Way I Treat My Swimming Pool?

No. You will still need to maintain a level of free chlorine to keep algae and bacteria from growing in your pool.

Who Can I Call for More Information?

Fort Wayne Water Filtration Plant:
(260) 427-1254

More information can also be found by visiting the EPA's website at:

www.epa.gov/safewater

Questions and Answers About Drinking Water Disinfection Using Chloramines

FORT WAYNE CITY UTILITIES

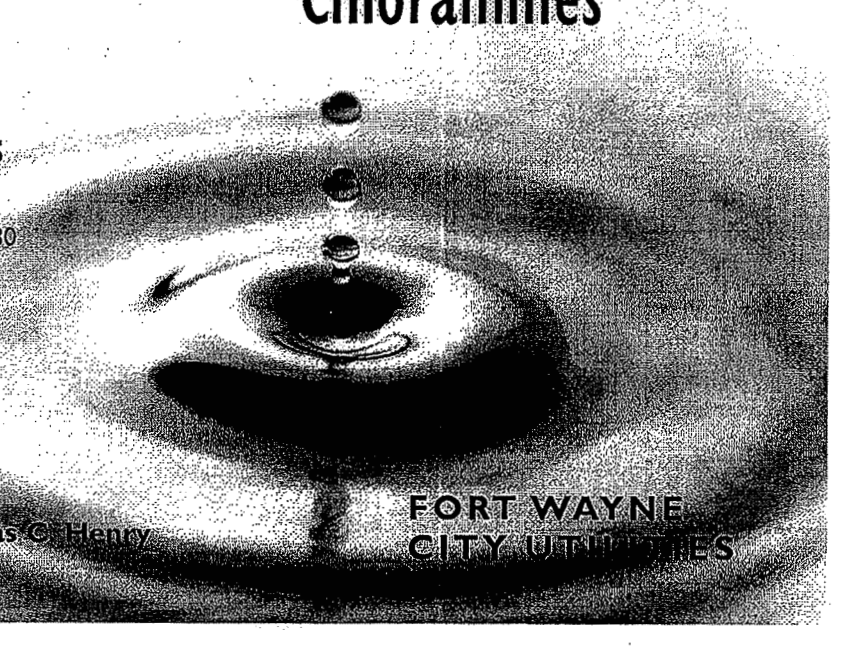
One E. Main Street, Room 280
Fort Wayne, Indiana 46802

Phone: (260) 427-1381
Fax: (260) 427-2540
www.cityoffortwayne.org



Mayor Thomas C. Henry

FORT WAYNE
CITY UTILITIES



What are Chloramines?

Most public drinking water systems must disinfect water before sending it out to customers. A "disinfection residual" must be maintained within the water piping system — even to the farthest point — to make sure that the bacteria killed in the water treatment process cannot regrow in the water mains.

Since the early-1990s, Fort Wayne has used chlorine dioxide as its primary disinfectant at the water plant and a substance called "chloramines" to maintain the disinfection residual. Creating chloramines involves adding ammonia to the water after it is treated with a liquid chlorine solution. Chloramines are formed and remain in the water to keep it safe when it reaches your home. Creating chloramines

stabilizes the disinfection process. Also water treated with chloramines is less likely to have the distinct chlorine smell associated with the application of chlorine alone. A number of other Indiana cities use chloramines including Indianapolis, Evansville and Terre Haute.

The U. S. Environmental Protection Agency (US EPA) has regulations that limit the concentration of chloramines in drinking water to 4 parts per million. A typical target level for chloramines in public drinking water systems is below 4 parts

per million. Generally, the end of pipe chloramines level should be greater than 0.5 parts per million in 95% of samples taken in a two month period. Fort Wayne samples a number of sites daily to monitor the amount of disinfectant in the water pipeline system. The US EPA also recognizes the ability of chloramines to control the formation of disinfection by-products.

Is Water Treated with Chloramines Safe?

Yes. Chloraminated water is safe for drinking, bathing, cooking and other everyday uses. Two groups of people do need to take special care with water treated with chloramines — kidney dialysis patients and people who have aquariums.



Chloramines keep drinking water safe from the Filtration Plant to your tap...

How Will Chloramines Affect Me?

Drinking water disinfected with chloramines often has less of a chlorine taste and odor and fewer disinfection by-products than water disinfected with free chlorine.

However, with chloramines, some hospitals and centers that provide kidney dialysis and individuals or businesses that have fish tanks will need to use pre-treatment practices to remove chloramines. Many hospitals and medical facilities are already long-time customers of City Utilities.

Activated carbon filtration or water treatment products that neutralize chloramines can be effective. Activated carbon filters must contain high quality granular activated carbon and adequate contact time between the water and the carbon is required.

Will Reverse Osmosis Treatment Units Remove Chloramines?

No. Chloramines pass through reverse osmosis membranes.

Do Home Water Softeners Remove Chloramines?

No. Softeners are not designed to remove chloramines.

How are Kidney Dialysis Patients Affected by Chloramines?

Chloramines can diffuse through the reverse osmosis membrane filters that are used by some home hemodialysis machines, and patients undergoing dialysis could be adversely affected. To prevent this, dialysis equipment must be modified to remove chloramines and the total combined chloramines concentration in the treated water must be monitored. Dialysis facilities will need to review their equipment and possibly make adjustments to ensure its continued safe operation. Dialysis facilities commonly use one of two methods to remove chloramines from water — the addition of ascorbic acid or the use of a granular-activated carbon filtration system designed to remove chloramines.

What Should People With Home Dialysis Machines Do?

Often home dialysis service companies can make the needed modification. Check with your equipment provider and with your physician.

Is it Safe for Kidney Dialysis Patients to Drink Water Containing Chloramines?

Yes. The digestive process metabolizes chloramines before the substance reaches the bloodstream so everyone can drink, cook with and bathe in water treated with chloramines. It is only when the water interacts directly with the bloodstream, such as in dialysis, that chloramines must be removed.

Is It Safe to Wash Cuts and Scrapes with the Water?

Yes. Water containing chloramines is useful in cleaning these types of injuries.

Can Children and Pregnant Women Drink Chloraminated Water?

Yes. It is safe for everyone to drink water treated with chloramines. Chloraminated water is also safe to use in preparing baby formula.

Can People on Low Sodium Diets or with Diabetes Use Chloraminated Water?

Yes. Chloramines have no adverse impacts for people with those conditions.

What Are Disinfection By-Products?

Disinfection of public drinking water supplies is absolutely essential to protect public health. But when the disinfectant used to treat drinking water combines with organic matter in source water — such as decaying leaves — disinfection byproducts may be produced. The EPA has established regulations that limit the amount of these byproducts in public water supplies. Fort Wayne's drinking water has always met these standards or is better than federal regulations require.



CITY OF FORT WAYNE

THOMAS C. HENRY, MAYOR

Fort Wayne City Utilities
(260) 427-1234

February 7, 2008

Dear Aqua Indiana North Area Customer:

As indicated in the letter of welcome sent to you by Fort Wayne Mayor Thomas C. Henry and City Utilities Director Kumar Menon and dated February 5, I'm writing to give you more information about when your neighborhood will be receiving City water. As you know, Fort Wayne City Utilities will take over the north assets of Aqua Indiana on February 12, 2008. Fort Wayne is ready to begin sending City water to your neighborhood through the existing pipelines.

We have tentatively scheduled the **Phase 1 - Southern Tier Area** transition, which includes your neighborhood, for a date on or shortly after **February 12, 2008**.

City crews have worked with Aqua Indiana to make several physical connections between the two water systems. The connections for your area will be opened, allowing City water to flush through the existing piping and out several fire hydrants. This will help to remove some of the deposits in the lines. We don't anticipate that there will be any interruption in water service, but you could experience discolored water as a result of flow direction changes, air in the lines, reduced pressure or other short term disruption. City Utilities will use the local media to let customers know if the water will be turned off for any significant length of time.

After the City has flushed the water piping in your area, the City recommends that you consider flushing the pipes in your own home. Let the water run for several minutes, flush toilets several times and allow appliances that use water – such as a washing machine, dishwasher, ice maker, etc. – to cycle. If discolored water reappears, you may need to repeat these actions. The water quality changes could result in loosened deposits in water piping, service lines and household plumbing over the first several weeks after your neighborhood is transitioned to City water. If problems persist, please contact Fort Wayne City Utilities Customer Service at 427-1234.

Fort Wayne City water is safe and great tasting. The City tests its water for more than 120 substances – some tests are done on an hourly basis. We also take water samples from many areas in the City every day to test them for quality. Fort Wayne's water continually meets or is better than all federal and state requirements.

Enclosed you will find answers to some common questions about Fort Wayne's water quality along with a brochure about the City's use of chloramines to maintain water disinfection all the way to your tap. If you need other information about water quality, please call City Utilities Customer Service at 427-1234.

Sincerely,

A handwritten signature in cursive script, appearing to read "Thomas T. Nitza, Jr.".

Thomas T. (Ted) Nitza, Jr., P.E.
Program Manager

SAFE CITY • QUALITY JOBS • B.E.S.T.

One Main St. • Fort Wayne, Indiana • 46802-1804 • www.cityoffortwayne.org

An Equal Opportunity Employer



CITY OF FORT WAYNE

THOMAS C. HENRY, MAYOR

Fort Wayne City Utilities
(260) 427-1234

February 28, 2008

Dear Newest City Utilities Customer:

As indicated in the letter of welcome sent to you by Fort Wayne Mayor Thomas C. Henry and City Utilities Director Kumar Menon and dated February 5, I'm writing to give you more information about when your neighborhood will be receiving City water. As you know, Fort Wayne City Utilities took over the north assets of Aqua Indiana on February 12, 2008. Fort Wayne is ready to begin sending City water to your neighborhood through the existing pipelines.

We have tentatively scheduled the **Phase 2 – Northwest Passage Area** transition, which includes your neighborhood, for a date on or shortly after **March 11, 2008**. This area also includes the neighborhoods of Fallen Timbers and Woodland Place and the southern portions of the Pine Valley Shopping Center.

There will likely be a 3 – 4 hour interruption in water service while the transition takes place in the overnight hours. In addition, you could experience discolored water as a result of flow direction changes, air in the lines, reduced pressure or other short term disruption. City Utilities will notify the local media regarding more precise times of possible water service interruptions.

After the City has flushed the water piping in your area, the City recommends that you consider flushing the pipes in your own home. Let the water run for several minutes, flush toilets several times and allow appliances that use water – such as a washing machine, dishwasher, ice maker, etc. – to cycle. If discolored water reappears, you may need to repeat these actions. The water quality changes could result in loosened deposits in water piping, service lines and household plumbing over the first several weeks after your neighborhood is transitioned to City water. If problems persist, please contact Fort Wayne City Utilities Customer Service at 427-1234.

Fort Wayne City water is safe and great tasting. The City tests its water for more than 120 substances – some tests are done on an hourly basis. We also take water samples from many areas in the City every day to test them for quality. Fort Wayne's water continually meets or is better than all federal and state requirements.

Enclosed you will find answers to some common questions about Fort Wayne's water quality along with a brochure about the City's use of chloramines to maintain water disinfection all the way to your tap. Any customers that have home kidney dialysis equipment should carefully review the brochure. In addition, the brochure includes important information for any customers with aquariums. If you need other information about water quality, please call City Utilities Customer Service at 427-1234.

Sincerely,

A handwritten signature in dark ink, appearing to read "Thomas T. Nitza, Jr.", is written over a horizontal line.

Thomas T. (Ted) Nitza, Jr., P.E.
Program Manager

SAFE CITY • QUALITY JOBS • B.E.S.T.

One Main St. • Fort Wayne, Indiana • 46802-1804 • www.cityoffortwayne.org

An Equal Opportunity Employer

Fort Wayne City Utilities
(260) 427-1234

February 28, 2008

Dear Newest City Utilities Customer:

As indicated in the letter of welcome sent to you by Fort Wayne Mayor Thomas C. Henry and City Utilities Director Kumar Menon and dated February 5, I'm writing to give you more information about when your neighborhood will be receiving City water. As you know, Fort Wayne City Utilities took over the north assets of Aqua Indiana on February 12, 2008. Fort Wayne is ready to begin sending City water to your neighborhood through the existing pipelines.

We have tentatively scheduled the **Phase 3 – Dawson's Parkway Area** transition, which includes your neighborhood, for a date on or shortly after **March 11, 2008**.

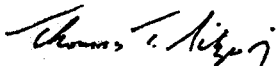
On this date, City Utilities will notify the local media regarding more precise times of the transition to City water. There should not be any interruption in your water service while the transition takes place during the overnight hours. However, you could experience discolored water as a result of flow direction changes, air in the lines, reduced pressure or other short term disruption.

After the City has flushed the water piping in your area, the City recommends that you consider flushing the pipes in your own home. Let the water run for several minutes, flush toilets several times and allow appliances that use water – such as a washing machine, dishwasher, ice maker, etc. – to cycle. If discolored water reappears, you may need to repeat these actions. The water quality changes could result in loosened deposits in water piping, service lines and household plumbing over the first several weeks after your neighborhood is transitioned to City water. If problems persist, please contact Fort Wayne City Utilities Customer Service at 427-1234.

Fort Wayne City water is safe and great tasting. The City tests its water for more than 120 substances – some tests are done on an hourly basis. We also take water samples from many areas in the City every day to test them for quality. Fort Wayne's water continually meets or is better than all federal and state requirements.

Enclosed you will find answers to some common questions about Fort Wayne's water quality along with a brochure about the City's use of chloramines to maintain water disinfection all the way to your tap. Any customers that have home kidney dialysis equipment should carefully review the brochure. In addition, the brochure includes important information for any customers with aquariums. If you need other information about water quality, please call City Utilities Customer Service at 427-1234.

Sincerely,



Thomas T. (Ted) Nitza, Jr., P.E.
Program Manager

Fort Wayne City Utilities
(260) 427-1234

March 20, 2008

Dear Newest City Utilities Customer:

As indicated in the letter of welcome sent to you by Fort Wayne Mayor Thomas C. Henry and City Utilities Director Kumar Menon and dated February 5, I'm writing to give you more information about when the North Point Plaza will be receiving City water. As you know, Fort Wayne City Utilities took over the north assets of Aqua Indiana on February 12, 2008. Fort Wayne is ready to begin sending City water to the North Point Plaza through the existing pipelines.

We have tentatively scheduled the **North Point Plaza** transition for **Tuesday, March 25, 2008**.

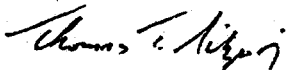
City Utilities will transition your area to City water during normal business hours on this date. There should not be any interruption in your water service; however, you could experience discolored water, air in the lines, reduced pressure or other short term disruption.

After the City has flushed the water piping in your area, the City recommends that you consider flushing the pipes at your facility. Let the water run for several minutes, flush toilets several times and allow appliances that use water – such as a washing machine, dishwasher, ice maker, etc. – to cycle. If discolored water reappears, you may need to repeat these actions. The water quality changes could result in loosened deposits in water piping, service lines and indoor plumbing over the first several weeks after you are transitioned to City water. If problems persist, please contact Fort Wayne City Utilities Customer Service at 427-1234.

Fort Wayne City water is safe and great tasting. The City tests its water for more than 120 substances – some tests are done on an hourly basis. We also take water samples from many areas in the City every day to test them for quality. Fort Wayne's water continually meets or is better than all federal and state requirements.

Enclosed you will find answers to some common questions about Fort Wayne's water quality along with a brochure about the City's use of chloramines to maintain water disinfection all the way to your tap. Any customers that have kidney dialysis equipment should carefully review the brochure. In addition, the brochure includes important information for any customers with aquariums. If you need other information about water quality, please call City Utilities Customer Service at 427-1234.

Sincerely,



Thomas T. (Ted) Nitza, Jr., P.E.
Program Manager

Fort Wayne City Utilities
(260) 427-1234

March 26, 2008

Dear Newest City Utilities Customer:

As indicated in the letter of welcome sent to you by Fort Wayne Mayor Thomas C. Henry and City Utilities Director Kumar Menon and dated February 5, I'm writing to give you more information about when your neighborhood will be receiving City water. As you know, Fort Wayne City Utilities took over the north assets of Aqua Indiana on February 12, 2008. Fort Wayne is now ready to begin sending City water to your neighborhood through the existing pipelines.

We have tentatively scheduled the **Phase IV – Windmill Ridge** transition for a date on or shortly after **Thursday, April 3, 2008.**

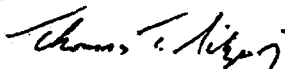
City Utilities will transition your area to City water during normal business hours on this date. There should not be any interruption in your water service; however, you could experience discolored water, air in the lines, reduced pressure or other short term disruption.

As part of the transition, the City will be flushing the water mains in your neighborhood by opening fire hydrants and letting the water run. After the City has flushed the water piping in your area, the City recommends that you consider flushing the pipes at your home. Let the water run for several minutes, flush toilets several times and allow appliances that use water – such as a washing machine, dishwasher, ice maker, etc. – to cycle. If discolored water reappears, you may need to repeat these actions. The water quality changes could result in loosened deposits in water piping, service lines and indoor plumbing over the first several weeks after you are transitioned to City water. If problems persist, please contact Fort Wayne City Utilities Customer Service at 427-1234.

Fort Wayne City water is safe and great tasting. The City tests its water for more than 120 substances – some tests are done on an hourly basis. We also take water samples from many areas in the City every day to test them for quality. Fort Wayne's water continually meets or is better than all federal and state requirements.

Enclosed you will find answers to some common questions about Fort Wayne's water quality along with a brochure about the City's use of chloramines to maintain water disinfection all the way to your tap. Any customers that have kidney dialysis equipment should carefully review the brochure. In addition, the brochure includes important information for any customers with aquariums. If you need other information about water quality, please call City Utilities Customer Service at 427-1234.

Sincerely,



Thomas T. (Ted) Nitza, Jr., P.E.
Program Manager

Fort Wayne City Utilities
(260) 427-1234

April 4, 2008

Dear Newest City Utilities Customer:

As indicated in the letter of welcome sent to you by Fort Wayne Mayor Thomas C. Henry and City Utilities Director Kumar Menon and dated February 5, I'm writing to give you more information about when your neighborhood will be receiving City water. As you know, Fort Wayne City Utilities took over the north assets of Aqua Indiana on February 12, 2008. Fort Wayne is ready to begin sending City water to your neighborhood through the existing pipelines.

We have tentatively scheduled the **Phase V – West Dupont and Lima Road Area** transition for a date on or shortly after **Thursday, April 17, 2008**. This phase includes your neighborhood.

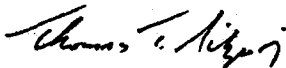
City Utilities will transition your area to City water during normal business hours on this date. There should not be any interruption in your water service; however, you could experience discolored water, air in the lines, reduced pressure or other short term disruption.

City Utilities will open fire hydrants in the area to flush the water main system. After the City has flushed the water piping in your area, the City recommends that you consider flushing the pipes at your home or facility. Let the water run for several minutes, flush toilets several times and allow appliances that use water – such as a washing machine, dishwasher, ice maker, etc. – to cycle. If discolored water reappears, you may need to repeat these actions. The water quality changes could result in loosened deposits in water piping, service lines and indoor plumbing over the first several weeks after you are transitioned to City water. If problems persist, please contact Fort Wayne City Utilities Customer Service at 427-1234.

Fort Wayne City water is safe and great tasting. The City tests its water for more than 120 substances – some tests are done on an hourly basis. We also take water samples from many areas in the City every day to test them for quality. Fort Wayne's water continually meets or is better than all federal and state requirements.

Enclosed you will find answers to some common questions about Fort Wayne's water quality along with a brochure about the City's use of chloramines to maintain water disinfection all the way to your tap. Any customers that have kidney dialysis equipment should carefully review the brochure. In addition, the brochure includes important information for any customers with aquariums. If you need other information about water quality, please call City Utilities Customer Service at 427-1234.

Sincerely,



Thomas T. (Ted) Nitza, Jr., P.E.
Program Manager

Fort Wayne City Utilities
(260) 427-1234

April 28, 2008

Dear Newest City Utilities Customer:

As indicated in the letter of welcome sent to you by Fort Wayne Mayor Thomas C. Henry and City Utilities Director Kumar Menon and dated February 5, I'm writing to give you more information about when your neighborhood will be receiving City water. As you know, Fort Wayne City Utilities took over the north assets of Aqua Indiana on February 12, 2008. Fort Wayne is ready to begin sending City water to your neighborhood through the existing pipelines.

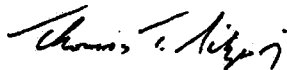
We have tentatively scheduled the **Phase 5A – LaCabreah and Eagle Lake Areas** transition for a date on or shortly after **Monday, May 5, 2008**.

There should not be any interruption in your water service; however, you could experience discolored water, air in the lines, reduced pressure or other short term disruption during the transition to City water. After the City has flushed the water piping in your area, the City recommends that you consider flushing the pipes at your home or facility. Let the water run for several minutes, flush toilets several times and allow appliances that use water – such as a washing machine, dishwasher, ice maker, etc. – to cycle. If discolored water reappears, you may need to repeat these actions. The water quality changes could result in loosened deposits in water piping, service lines and indoor plumbing over the first several weeks after you are transitioned to City water. If problems persist, please contact Fort Wayne City Utilities Customer Service at 427-1234.

Fort Wayne City water is safe and great tasting. The City tests its water for more than 120 substances – some tests are done on an hourly basis. We also take water samples from many areas in the City every day to test them for quality. Fort Wayne's water continually meets or is better than all federal and state requirements.

Enclosed you will find answers to some common questions about Fort Wayne's water quality along with a brochure about the City's use of chloramines to maintain water disinfection all the way to your tap. Any customers that have kidney dialysis equipment should carefully review the brochure. In addition, the brochure includes important information for any customers with aquariums. If you need other information about water quality, please call City Utilities Customer Service at 427-1234.

Sincerely,



Thomas T. (Ted) Nitza, Jr., P.E.
Program Manager

Fort Wayne City Utilities
(260) 427-1234

April 29, 2008

Dear Newest City Utilities Customer:

As indicated in the letter of welcome sent to you by Fort Wayne Mayor Thomas C. Henry and City Utilities Director Kumar Menon and dated February 5, I'm writing to give you more information about when your neighborhood will be receiving City water. As you know, Fort Wayne City Utilities took over the north assets of Aqua Indiana on February 12, 2008. Fort Wayne is ready to begin sending City water to your neighborhood through the existing pipelines.

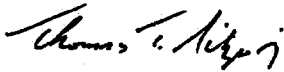
We have tentatively scheduled the **Phase VI – Pine Valley and Lake River Areas** transition for a date on or shortly after **Thursday, May 8, 2008**. This phase includes your neighborhood.

There should not be any interruption in your water service; however, you could experience discolored water, air in the lines, reduced pressure or other short term disruption during the transition to City water. After the City has flushed the water piping in your area, the City recommends that you consider flushing the pipes at your home or facility. Let the water run for several minutes, flush toilets several times and allow appliances that use water – such as a washing machine, dishwasher, ice maker, etc. – to cycle. If discolored water reappears, you may need to repeat these actions. The water quality changes could result in loosened deposits in water piping, service lines and indoor plumbing over the first several weeks after you are transitioned to City water. If problems persist, please contact Fort Wayne City Utilities Customer Service at 427-1234.

Fort Wayne City water is safe and great tasting. The City tests its water for more than 120 substances – some tests are done on an hourly basis. We also take water samples from many areas in the City every day to test them for quality. Fort Wayne's water continually meets or is better than all federal and state requirements.

Enclosed you will find answers to some common questions about Fort Wayne's water quality along with a brochure about the City's use of chloramines to maintain water disinfection all the way to your tap. Any customers that have kidney dialysis equipment should carefully review the brochure. In addition, the brochure includes important information for any customers with aquariums. If you need other information about water quality, please call City Utilities Customer Service at 427-1234.

Sincerely,



Thomas T. (Ted) Nitza, Jr., P.E.
Program Manager

Fort Wayne City Utilities
(260) 427-1234

May 14, 2008

Dear Newest City Utilities Customer:

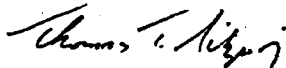
Fort Wayne City Utilities has completed the transition of the entire Aqua Indiana north service area to City water service. Your neighborhood is included in the transition area, and you are now receiving City water from Fort Wayne City Utilities. If you had sewer service from Aqua Indiana, you are now a direct retail sewer customer of the City of Fort Wayne, too.

The physical transition of your area to City water was completed within the past three months. After the transition was made, the City flushed public water lines by opening fire hydrants and letting those run for several hours. If you have not done so already, we recommend that you consider flushing the pipes at your home or facility. Let the water run for several minutes, flush toilets several times and allow appliances that use water – such as a washing machine, dishwasher, ice maker, etc. – to cycle. If discolored water reappears, you may need to repeat these actions. The water quality changes could result in loosened deposits in water piping, service lines and indoor plumbing over the first several weeks after you are transitioned to City water. If problems persist, please contact Fort Wayne City Utilities Customer Service at 427-1234.

Fort Wayne City water is safe and great tasting. The City tests its water for more than 120 substances – some tests are done on an hourly basis. We also take water samples from many areas in the City every day to test them for quality. Fort Wayne's water continually meets or is better than all federal and state requirements.

Enclosed you will find answers to some common questions about Fort Wayne's water quality along with a brochure about the City's use of chloramines to maintain water disinfection all the way to your tap. Any customers that have kidney dialysis equipment should carefully review the brochure. In addition, the brochure includes important information for any customers with aquariums. If you need other information about water quality, please call City Utilities Customer Service at 427-1234.

Sincerely,



Thomas T. (Ted) Nitza, Jr., P.E.
Program Manager

Fort Wayne City Utilities
(260) 427-1234

March 20, 2008

Dear Newest City Utilities Customer:

As indicated in the letter of welcome sent to you by Fort Wayne Mayor Thomas C. Henry and City Utilities Director Kumar Menon and dated February 5, I'm writing to give you more information about when the North Point Plaza will be receiving City water. As you know, Fort Wayne City Utilities took over the north assets of Aqua Indiana on February 12, 2008. Fort Wayne is ready to begin sending City water to the North Point Plaza through the existing pipelines.

We have tentatively scheduled the **North Point Plaza** transition for **Tuesday, March 25, 2008**.

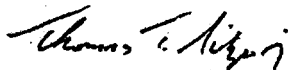
City Utilities will transition your area to City water during normal business hours on this date. There should not be any interruption in your water service; however, you could experience discolored water, air in the lines, reduced pressure or other short term disruption.

After the City has flushed the water piping in your area, the City recommends that you consider flushing the pipes at your facility. Let the water run for several minutes, flush toilets several times and allow appliances that use water – such as a washing machine, dishwasher, ice maker, etc. – to cycle. If discolored water reappears, you may need to repeat these actions. The water quality changes could result in loosened deposits in water piping, service lines and indoor plumbing over the first several weeks after you are transitioned to City water. If problems persist, please contact Fort Wayne City Utilities Customer Service at 427-1234.

Fort Wayne City water is safe and great tasting. The City tests its water for more than 120 substances – some tests are done on an hourly basis. We also take water samples from many areas in the City every day to test them for quality. Fort Wayne's water continually meets or is better than all federal and state requirements.

Enclosed you will find answers to some common questions about Fort Wayne's water quality along with a brochure about the City's use of chloramines to maintain water disinfection all the way to your tap. Any customers that have kidney dialysis equipment should carefully review the brochure. In addition, the brochure includes important information for any customers with aquariums. If you need other information about water quality, please call City Utilities Customer Service at 427-1234.

Sincerely,



Thomas T. (Ted) Nitza, Jr., P.E.
Program Manager

Fort Wayne City Utilities
(260) 427-1234

March 26, 2008

Dear Newest City Utilities Customer:

As indicated in the letter of welcome sent to you by Fort Wayne Mayor Thomas C. Henry and City Utilities Director Kumar Menon and dated February 5, I'm writing to give you more information about when your neighborhood will be receiving City water. As you know, Fort Wayne City Utilities took over the north assets of Aqua Indiana on February 12, 2008. Fort Wayne is now ready to begin sending City water to your neighborhood through the existing pipelines.

We have tentatively scheduled the **Phase IV – Windmill Ridge** transition for a date on or shortly after **Thursday, April 3, 2008**.

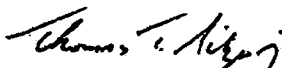
City Utilities will transition your area to City water during normal business hours on this date. There should not be any interruption in your water service; however, you could experience discolored water, air in the lines, reduced pressure or other short term disruption.

As part of the transition, the City will be flushing the water mains in your neighborhood by opening fire hydrants and letting the water run. After the City has flushed the water piping in your area, the City recommends that you consider flushing the pipes at your home. Let the water run for several minutes, flush toilets several times and allow appliances that use water – such as a washing machine, dishwasher, ice maker, etc. – to cycle. If discolored water reappears, you may need to repeat these actions. The water quality changes could result in loosened deposits in water piping, service lines and indoor plumbing over the first several weeks after you are transitioned to City water. If problems persist, please contact Fort Wayne City Utilities Customer Service at 427-1234.

Fort Wayne City water is safe and great tasting. The City tests its water for more than 120 substances – some tests are done on an hourly basis. We also take water samples from many areas in the City every day to test them for quality. Fort Wayne's water continually meets or is better than all federal and state requirements.

Enclosed you will find answers to some common questions about Fort Wayne's water quality along with a brochure about the City's use of chloramines to maintain water disinfection all the way to your tap. Any customers that have kidney dialysis equipment should carefully review the brochure. In addition, the brochure includes important information for any customers with aquariums. If you need other information about water quality, please call City Utilities Customer Service at 427-1234.

Sincerely,



Thomas T. (Ted) Nitza, Jr., P.E.
Program Manager

Fort Wayne City Utilities
(260) 427-1234

April 4, 2008

Dear Newest City Utilities Customer:

As indicated in the letter of welcome sent to you by Fort Wayne Mayor Thomas C. Henry and City Utilities Director Kumar Menon and dated February 5, I'm writing to give you more information about when your neighborhood will be receiving City water. As you know, Fort Wayne City Utilities took over the north assets of Aqua Indiana on February 12, 2008. Fort Wayne is ready to begin sending City water to your neighborhood through the existing pipelines.

We have tentatively scheduled the **Phase V – West Dupont and Lima Road Area** transition for a date on or shortly after **Thursday, April 17, 2008**. This phase includes your neighborhood.

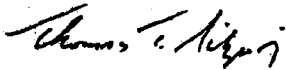
City Utilities will transition your area to City water during normal business hours on this date. There should not be any interruption in your water service; however, you could experience discolored water, air in the lines, reduced pressure or other short term disruption.

City Utilities will open fire hydrants in the area to flush the water main system. After the City has flushed the water piping in your area, the City recommends that you consider flushing the pipes at your home or facility. Let the water run for several minutes, flush toilets several times and allow appliances that use water – such as a washing machine, dishwasher, ice maker, etc. – to cycle. If discolored water reappears, you may need to repeat these actions. The water quality changes could result in loosened deposits in water piping, service lines and indoor plumbing over the first several weeks after you are transitioned to City water. If problems persist, please contact Fort Wayne City Utilities Customer Service at 427-1234.

Fort Wayne City water is safe and great tasting. The City tests its water for more than 120 substances – some tests are done on an hourly basis. We also take water samples from many areas in the City every day to test them for quality. Fort Wayne's water continually meets or is better than all federal and state requirements.

Enclosed you will find answers to some common questions about Fort Wayne's water quality along with a brochure about the City's use of chloramines to maintain water disinfection all the way to your tap. Any customers that have kidney dialysis equipment should carefully review the brochure. In addition, the brochure includes important information for any customers with aquariums. If you need other information about water quality, please call City Utilities Customer Service at 427-1234.

Sincerely,



Thomas T. (Ted) Nitza, Jr., P.E.
Program Manager

Fort Wayne City Utilities
(260) 427-1234

April 28, 2008

Dear Newest City Utilities Customer:

As indicated in the letter of welcome sent to you by Fort Wayne Mayor Thomas C. Henry and City Utilities Director Kumar Menon and dated February 5, I'm writing to give you more information about when your neighborhood will be receiving City water. As you know, Fort Wayne City Utilities took over the north assets of Aqua Indiana on February 12, 2008. Fort Wayne is ready to begin sending City water to your neighborhood through the existing pipelines.

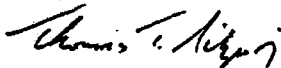
We have tentatively scheduled the **Phase 5A – LaCabreah and Eagle Lake Areas** transition for a date on or shortly after **Monday, May 5, 2008**.

There should not be any interruption in your water service; however, you could experience discolored water, air in the lines, reduced pressure or other short term disruption during the transition to City water. After the City has flushed the water piping in your area, the City recommends that you consider flushing the pipes at your home or facility. Let the water run for several minutes, flush toilets several times and allow appliances that use water – such as a washing machine, dishwasher, ice maker, etc. – to cycle. If discolored water reappears, you may need to repeat these actions. The water quality changes could result in loosened deposits in water piping, service lines and indoor plumbing over the first several weeks after you are transitioned to City water. If problems persist, please contact Fort Wayne City Utilities Customer Service at 427-1234.

Fort Wayne City water is safe and great tasting. The City tests its water for more than 120 substances – some tests are done on an hourly basis. We also take water samples from many areas in the City every day to test them for quality. Fort Wayne's water continually meets or is better than all federal and state requirements.

Enclosed you will find answers to some common questions about Fort Wayne's water quality along with a brochure about the City's use of chloramines to maintain water disinfection all the way to your tap. Any customers that have kidney dialysis equipment should carefully review the brochure. In addition, the brochure includes important information for any customers with aquariums. If you need other information about water quality, please call City Utilities Customer Service at 427-1234.

Sincerely,



Thomas T. (Ted) Nitza, Jr., P.E.
Program Manager

Fort Wayne City Utilities
(260) 427-1234

April 29, 2008

Dear Newest City Utilities Customer:

As indicated in the letter of welcome sent to you by Fort Wayne Mayor Thomas C. Henry and City Utilities Director Kumar Menon and dated February 5, I'm writing to give you more information about when your neighborhood will be receiving City water. As you know, Fort Wayne City Utilities took over the north assets of Aqua Indiana on February 12, 2008. Fort Wayne is ready to begin sending City water to your neighborhood through the existing pipelines.

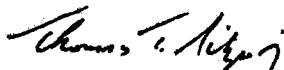
We have tentatively scheduled the **Phase VI – Pine Valley and Lake River Areas** transition for a date on or shortly after **Thursday, May 8, 2008**. This phase includes your neighborhood.

There should not be any interruption in your water service; however, you could experience discolored water, air in the lines, reduced pressure or other short term disruption during the transition to City water. After the City has flushed the water piping in your area, the City recommends that you consider flushing the pipes at your home or facility. Let the water run for several minutes, flush toilets several times and allow appliances that use water – such as a washing machine, dishwasher, ice maker, etc. – to cycle. If discolored water reappears, you may need to repeat these actions. The water quality changes could result in loosened deposits in water piping, service lines and indoor plumbing over the first several weeks after you are transitioned to City water. If problems persist, please contact Fort Wayne City Utilities Customer Service at 427-1234.

Fort Wayne City water is safe and great tasting. The City tests its water for more than 120 substances – some tests are done on an hourly basis. We also take water samples from many areas in the City every day to test them for quality. Fort Wayne's water continually meets or is better than all federal and state requirements.

Enclosed you will find answers to some common questions about Fort Wayne's water quality along with a brochure about the City's use of chloramines to maintain water disinfection all the way to your tap. Any customers that have kidney dialysis equipment should carefully review the brochure. In addition, the brochure includes important information for any customers with aquariums. If you need other information about water quality, please call City Utilities Customer Service at 427-1234.

Sincerely,



Thomas T. (Ted) Nitza, Jr., P.E.
Program Manager

Fort Wayne City Utilities
(260) 427-1234

May 14, 2008

Dear Newest City Utilities Customer:

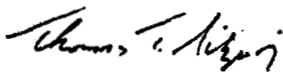
Fort Wayne City Utilities has completed the transition of the entire Aqua Indiana north service area to City water service. Your neighborhood is included in the transition area, and you are now receiving City water from Fort Wayne City Utilities. If you had sewer service from Aqua Indiana, you are now a direct retail sewer customer of the City of Fort Wayne, too.

The physical transition of your area to City water was completed within the past three months. After the transition was made, the City flushed public water lines by opening fire hydrants and letting those run for several hours. If you have not done so already, we recommend that you consider flushing the pipes at your home or facility. Let the water run for several minutes, flush toilets several times and allow appliances that use water – such as a washing machine, dishwasher, ice maker, etc. – to cycle. If discolored water reappears, you may need to repeat these actions. The water quality changes could result in loosened deposits in water piping, service lines and indoor plumbing over the first several weeks after you are transitioned to City water. If problems persist, please contact Fort Wayne City Utilities Customer Service at 427-1234.

Fort Wayne City water is safe and great tasting. The City tests its water for more than 120 substances – some tests are done on an hourly basis. We also take water samples from many areas in the City every day to test them for quality. Fort Wayne's water continually meets or is better than all federal and state requirements.

Enclosed you will find answers to some common questions about Fort Wayne's water quality along with a brochure about the City's use of chloramines to maintain water disinfection all the way to your tap. Any customers that have kidney dialysis equipment should carefully review the brochure. In addition, the brochure includes important information for any customers with aquariums. If you need other information about water quality, please call City Utilities Customer Service at 427-1234.

Sincerely,



Thomas T. (Ted) Nitza, Jr., P.E.
Program Manager

EXHIBIT D

**STATE OF INDIANA
INDIANA UTILITY REGULATORY COMMISSION**

**PETITION OF THE UTILITY CENTER, INC., d/b/a)
AQUA INDIANA, INC. FOR APPROVAL OF THE)
TRANSFER OF A PORTION OF ITS PLANT AND)
PROPERTY, FOR LEAVE TO RELINQUISH ITS)
AUTHORITY TO PROVIDE SEWAGE DISPOSAL)
AND WATER UTILITY SERVICES IN PORTIONS)
OF PERRY AND WASHINGTON TOWNSHIPS OF)
ALLEN COUNTY, INDIANA, AND FOR)
TERMINATION OF RELATED OBLIGATIONS)**

CAUSE NO. 43453

**RESPONDENT:)
CITY OF FORT WAYNE, INDIANA)**

BY THE COMMISSION:

Jeffrey L. Golc, Commissioner
Lorraine Hitz-Bradley, Administrative Law Judge

On February 29, 2008, Utility Center, Inc. d/b/a Aqua Indiana, Inc. ("Aqua Indiana" or "Petitioner") filed a Verified Petition requesting that the Indiana Utility Regulatory Commission ("Commission") allow it to relinquish the portion of its certificate of territorial authority ("CTA") covering three distinct areas in Perry and Washington Townships of Allen County commonly referred to as the Pine Valley CTA, Lake River CTA and Clearwater CTA (jointly identified herein as the "North System CTAs"). On March 13, 2008, the Commission issued a docket entry determining that the City of Fort Wayne, Indiana ("Fort Wayne" or "Respondent") was a necessary party to this proceeding, making them a named respondent and revising the caption to reflect Fort Wayne's status.

Pursuant to notice published as required by law, the Commission held a prehearing conference in this cause on April 15, 2008, in Room 224 of the National City Center, 101 West Washington Street, Indianapolis, Indiana at 1:30 p.m. Proofs of publication of the notice of the prehearing conference were incorporated into the record and placed in the official files of the Commission. The Petitioner, the Respondent and the Office of Utility Consumer Counselor ("Public" or "OUCC") appeared and participated at the prehearing conference. No members of the general public appeared. Pursuant to the agreement of the parties, the Commission set

prefiling and hearing dates in the cause. Additionally, at the prehearing conference Petitioner offered to file an amended petition adding a request, to the extent necessary, that the Commission approve the transfer of Aqua Indiana's North System assets to Fort Wayne. On April 23, 2008, the Commission adopted a Prehearing Conference Order which, among other things, noted that Petitioner filed its amended Petition on April 21, 2008 and established procedures for submitting testimony or settlements to the Commission.

On July 2, 2008, the Petitioner and Respondent and the Public jointly filed a Joint Stipulation and Settlement Agreement including various exhibits resolving all issues raised or potentially raised in this Cause by the Parties ("Commission Settlement").

Pursuant to notice given as provided by law, proof of which was incorporated into the record by reference and placed in the official files of the Commission, a public evidentiary hearing was convened in this Cause on May 30, 2008 at 1:30 p.m., in Room 224 of the National City Center, 101 West Washington Street, Indianapolis, Indiana. At the public hearing, Aqua Indiana, the OUCC and Fort Wayne provided witnesses in support of the Commission Settlement and their live testimony was received and admitted into the record of the proceedings in this Cause. Additionally, the Commission Settlement, the Verified Petition and the Amended Verified Petition were received and admitted into the record of the proceedings in this Cause. No members of the general public appeared at the evidentiary hearing.

Having considered the evidence and being duly advised, the Commission now finds:

1. **Notice of Jurisdiction.** Due legal and timely notices of the evidentiary hearings in this Cause were given and published by the Commission as required by law. Petitioner is a "public utility" as defined in Ind. Code § 8-1-2-1(a) and a "sewage disposal company" as defined in § 8-1-2-89(a)(2) and therefore is subject to the Commission's jurisdiction. Petitioner is currently doing business as Aqua Indiana.
2. **Utility Center's Characteristics.** Petitioner is a for-profit Indiana corporation engaged in the business of rendering water and sewer utility services in Allen County and Whitney

County, Indiana. Petitioner's corporate office is located at 2200 West Cook Road, Fort Wayne, Indiana 46818.

Petitioner's utility properties were historically operated as part of two geographically separate systems: the North System and the Aboite Township System. The North System includes portions of St. Joseph, Washington, Cedar Creek and Perry Townships. The Aboite Township System serves Aboite and Wayne Townships in Allen County and a small portion of Whitley County. As of February 12, 2008, Fort Wayne took possession of the North System assets.

3. **Relief Requested.** In the original Petition, Petitioner requested that the Commission allow it to relinquish its authority to provide sewer service in the North System CTAs. At the Commission's request, in the Amended Petition Petitioner added a request that the Commission approve the transfer of the North System assets to Fort Wayne. Additionally, Petitioner added a request that the Commission allow it to relinquish its authority to provide water service in the area served by the North System water assets.

4. **Background and Related Litigation.** In June 2002, Fort Wayne initiated a condemnation action to take Aqua Indiana's North System assets. Aqua Indiana filed suit challenging Fort Wayne's condemnation. In June 2007, the Indiana Supreme Court in *Utility Center, Inc. v. City of Fort Wayne*, 868 N.E.2d 453 (Ind. 2007) addressed the condemnation action. Subsequent to the Supreme Court's decision, Fort Wayne awarded damages to Aqua Indiana for the taking of the North System assets. Aqua Indiana has challenged the amount of the damage award, and that action is pending in Allen County Superior Court.

Fort Wayne proceeded to attempt to take possession of the North System assets in December 2007. Aqua Indiana disagreed with the process Fort Wayne was using to acquire the property and filed suit opposing Fort Wayne's efforts. In January 2008, Fort Wayne and Aqua Indiana were able to enter a settlement resolving all issues, except final valuation, regarding Fort Wayne's condemnation of Aqua Indiana's North System assets ("Litigation Settlement").

Pursuant to the terms of the Litigation Settlement, on February 12, 2008, Fort Wayne took possession of the North System assets. In order to ensure a smooth transition for the customers served by the North System assets, Fort Wayne and Aqua Indiana also entered into a Professional Services Agreement providing that Aqua Indiana would continue to operate the North System (both water and wastewater systems) during the transition of the North System customers from treated ground water supplied by Aqua Indiana to treated surface water from Fort Wayne's facilities. All of the customers have now been transitioned.

5. Relinquishment of CTA.

A. Reason for Relinquishment. Fort Wayne's condemnation of the North System assets includes the facilities that Aqua Indiana used to provide wastewater services to the North System customers. Indiana Code § 8-1-2-89(k) permits the Commission to terminate a CTA in the event "any term, condition, or limitation of" it has not been satisfied by the holder. The Parties to the Commission Settlement agree that with the loss of its North System wastewater collection system assets, Aqua Indiana lacks the ability to provide sewage disposal services to any customers within the North System CTAs. The portions of Aqua Indiana's overall wastewater CTA contained within the North System CTAs are more specifically described in Exhibit B to the Commission Settlement.

B. Service to Customers Within the North System Wastewater CTAs. The Parties in the Commission Settlement agree that Fort Wayne is prepared to provide service to any customer currently receiving or prospectively requesting sewer service in the North System CTAs. Fort Wayne already provides the treatment services for sewage collected from the North System CTAs and has agreed to provide service in a reasonably timely manner to any customer that

requests sewer service in the North System CTAs (regardless of whether that customer is requesting service for septic relief or because of new construction).

C. Aqua Indiana's Ability to Provide Service in its Remaining Wastewater CTA.

Aqua Indiana's relinquishment of its authority to provide sewage disposal service within the North System CTAs does not affect in any way its authority to provide sewage disposal services elsewhere in the area identified in the Commission's March 3, 2004 Order in Cause No. 42332 (the "CTA Order"). With the exception of the North System CTAs Aqua Indiana continues to be authorized to serve all remaining areas within which the CTA Order authorized it to provide sewage disposal services.

6. Other Issues. Pursuant to discussions at the Prehearing Conference, Aqua Indiana filed its Amended Petition. The Amended Petition adds a request that the Commission approve the transfer of Aqua Indiana's North System assets. The Amended Petition also requested that the Commission allow Aqua Indiana to relinquish its authority to provide water service in the area served by its North System assets.

Through the Litigation Settlement and the Operating Agreement Aqua Indiana and Fort Wayne assured that customers were transitioned from Aqua Indiana's service to Fort Wayne's service with minimal disruption or confusion. All North System customers have now been completely transitioned to Fort Wayne service. In the Commission Settlement, Fort Wayne has agreed to deal with North System customer complaints and issues in a timely fashion regardless of whether those complaints relate to Aqua Indiana's service or Fort Wayne's service.

Aqua Indiana has an existing rate case in Cause No. 43331. Aqua Indiana was permitted to submit revised testimony in that Cause which reflects the change in rate base and expenses that resulted from Fort Wayne's condemnation of the North System assets. Therefore, the change in rate base and expenses is being reviewed in the current rate proceeding.

The items discussed above in the Commission Settlement, and throughout this Order, demonstrate that this is an unusual situation with unique facts and circumstances. Given the specific facts and circumstances surrounding Fort Wayne's condemnation of Aqua Indiana's North System assets, we accept the terms of the Commission Settlement and find that, Aqua Indiana's the North System CTAs are hereby relinquished and that no further action of the Commission is required in this Cause.

7. **Settlement.** Settlements presented to the Commission are not ordinary contracts between private parties. *United States Gypsum, Inc. v. Indiana Gas Co.*, 735 N.E.2d 790, 803 (Ind. 2000). When the Commission approves a settlement, that settlement "loses its status as a strictly private contract and takes on a public interest gloss." *Id.* (quoting, *Citizens Action Coalition v. PSI Energy*, 664 N.E.2d 401, 406 (Ind. Ct. App. 1996)). Thus, the Commission "may not accept a settlement merely because the private parties are satisfied; rather [the Commission] must consider whether the public interest will be served by accepting the settlement." *Citizens Action Coalition*, 664 N.E.2d at 406.

Furthermore, any Commission decision, ruling, or order -- including the approval of a settlement -- must be supported by specific findings of fact and sufficient evidence. *United States Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coalition v. Public Service Co.*, 582

N.E.2d 330, 331 (Ind. 1991)). The Commission's own procedural rules require that settlements be supported by probative evidence. 170 IAC 1-1.1-17(d). Therefore, before the Commission can approve the Settlement Agreement, we must determine whether the evidence in this Cause sufficiently supports the conclusions that the Settlement Agreement is reasonable, just, and consistent with the purpose of Indiana Code § 8-1-2, and that such agreement serves the public interest.

The parties agree that the Settlement Agreement should not be used as precedent in any other proceeding or for any other purpose, except to the extent necessary to implement or enforce its terms. Consequently, with regard to future citation of the Settlement Agreement, we find that our approval herein should be construed in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434, (*Ind. Util. Reg. Comm'n*, March 19, 1997).

A review of the evidence in the record shows that the settlement represents a fair resolution of the matter.

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. The Joint Stipulation and Settlement Agreement filed in this Cause on July 1, 2008, should be approved in its entirety, without change, and the terms and conditions thereof should be incorporated herein as part of this Order, and the Parties should comply with the provisions of the Joint Stipulation and Settlement Agreement.
2. Aqua Indiana's relinquishment of the North System CTAs is hereby approved.

3. Aqua Indiana's relinquishment of its authority to provide water service in the area served by the North System water assets is hereby approved.

4. Any issues regarding Aqua Indiana's rates will be resolved in Cause No. 43331.

5. Under the specific facts and circumstances of these matters, the Commission accepts and approves the terms of the Joint Stipulation and Settlement Agreement and determines that no further action by the Commission is required in this Cause with regard to the Amended Petition.

6. This Order shall be effective on and after the date of its approval.

1300377v.2